SUBJECT INDEX

PAGE

Opinions below 1

Jurisdiction 1

Questions presented 2

Statement 2

Argument 3

I.

The questions presented by the petition are not predicated upon the facts found by the trial court 3

II.

The decision below is clearly correct 3

III.

The provisions of Article I, Section 10 of the Constitution of the United States and the Fourteenth Amendment thereto are not pertinent to the instant litigation 3

Conclusion 4

TABLE OF AUTHORITIES CITED

STATUTES PAGE

United States Code, Title 28, Sec. 1257(3) 1, 2

United States Constitution, Art. I, Sec. 10 4

IN THE

Supreme Court of the United States

October Term, 1953
No. 371.

LOS ANGELES COUNTY PIONEER SOCIETY,
Petitioner,

vs.

HISTORICAL SOCIETY OF SOUTHERN CALIFORNIA and PEOPLE OF THE STATE OF CALIFORNIA,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA.

BRIEF FOR RESPONDENT, PEOPLE OF THE STATE OF CALIFORNIA, IN OPPOSITION.

Opinions Below.

The Opinion of the California Supreme Court is reported at 40 Cal. 2d 852, 246 P. 2d 1029. The Supreme Court Opinion was filed on hearing granted after decision by the District Court of Appeal, Second Appellate District, Division Two, affirming an Order of the Superior Court. The Opinion of the District Court of Appeal is reported at 246 P. 2d 1029.

Jurisdiction.

The Petition seeks to invoke the jurisdiction conferred by 28 U. S. C., Section 1257(3).

Questions Presented.

Although the Petition purports to present questions falling within the purview of 28 U. S. C. 1257(3), a reading of the record (a copy of which was not served on this respondent) and the Opinion of the California Supreme Court will disclose that those questions are predicated upon a disregard of the facts found by the trial court.

Statement.

The decision of the California Supreme Court affirmed an Order of the California Superior Court appointing the Historical Society of Southern California successor trustee of a charitable trust previously maladministered by petitioner. The existence of a charitable trust had previously been determined by the trial court by the entry of an interlocutory judgment to that effect upon a Petition in Intervention filed by the Attorney General of the State of California in voluntary dissolution proceedings theretofore commenced by petitioner.

It should be immediately apparent from a reading of the Opinion filed by the California Supreme Court, and the record herein, that the filing of the Petition herein is but the last step in a series of legal maneuvers designed to accomplish the distribution of assets of a public, charitable trust to private individuals for their private, individual benefit in distinct violation of that trust. It is also to be noted that even at this stage of petitioner's activities the Attorney General of the State of California, a necessary party to any proceeding purporting to affect the disposition of assets of a charitable trust, has not been named as a party respondent in petitioner's caption of this case.

ARGUMENT.

I.

The Questions Presented by the Petition Are Not Predicated Upon the Facts Found by the Trial Court.

The thirteen questions presented by the Petition are all predicated upon a disregard of the trial court's finding that the money involved was the corpus of a public, charitable trust of which petitioner was merely the trustee, and that petitioner had abandoned the trust.

II.

The Decision Below Is Clearly Correct.

The decision of the California Supreme Court reaches the only conclusion possible under the circumstances. In view of the extensiveness and completeness of that court's decision, counsel will not presume to paraphrase it.

Justice Carter's dissenting Opinion, upon which petitioner places much stress, disregards the trial court's findings and proceeds upon the premise that petitioner was not seeking to dispose of the assets of a charitable trust.

III.

The Provisions of Article I, Section 10 of the Constitution of the United States and the Fourteenth Amendment Thereto Are Not Pertinent to the Instant Litigation.

Inasmuch as the record clearly establishes that the assets involved are subject to a public, charitable trust and that petitioner abandoned its duties as trustee, it necessarily follows that there has been no impairment of a contractual obligation in violation of Article I, Section

10 of the Constitution of the United States, nor a violation of the due process and equal protection provisions of the Fourteenth Amendment.

Conclusion.

For the foregoing reasons, it is respectfully submitted that the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

EDMUND G. BROWN,
Attorney General of the State of California,

FRANK J. MACKIN,
Assistant Attorney General,

EDWARD SUMNER,
Deputy Attorney General,

Counsel for Respondent, People of the State of California.

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